IN THE HIGH COURT OF JUDICATURE OF

ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE MR. JUSTICE J.CHELAMESWAR

And

THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 7780 OF 2006

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Dated: 12th June, 2006

Between:

N.V. Nageswara Rao

Petitioner

AND

The Commercial Tax Officer,

Suryaraopet, Vijayawada and another

Respondents

THE HON'BLE MR. JUSTICE J.CHELAMESWAR

And

THE HON'BLE MR. JUSTICE D.APPA RAO

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W.P. NO. 7780 OF 2006

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner has filed this writ petition with the following prayer:

> *For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one n the nature of Writ of Mandamus declaring the action of the 2nd respondent in passing the impugned revision order in proceedings RF No. 9/2003-04 dated 10.03.2006 for the assessment year 1999 - 2000 under the APGST Act as illegal, arbitrary, high handedness, without authority of law and contrary to Section 20 (2A) of the APGST Act and also in violation of the judgment of the Hon'ble High Court in the case of Indo National Vs. Commissioner of Commercial Taxes, reported in 136 STC page 586 and set aside the same and declare that the 2nd respondent has no authority or jurisdiction to pass the impugned revision order till the identical issues which are pending before the Hon'ble STAT are decided and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.*

It may not be necessary to narrate the factual details of the case. The

question involved in this writ petition is already covered by a Division Bench Judgment of this Court in Special Appeal Nos. 27, 34 39 & 42 of 2003 and W.P. Nos. 163 & 4119 of 2006 delivered on 7.3.2006, holding that:

> *"…Going by this judgment and also the judgment of the Full Bench of the High Court, we are of the view that when a matter is pending before the Sale Tax Tribunal and a revision is initiated by authority under the Act and if a request is made by the assessee to stay the revision till disposal of the appeal, in view of mandate of Section 20(2-A), the stay should invariably be granted and the period spent in the litigation before the Tribunal should not be counted for the purpose of limitation under Sec. 20(3) if the Revenue decides to initiate revision after Tribunal decides the matter…"*

In the circumstances, the writ petition is allowed, after hearing the learned Government Pleader.

The office is directed to append a copy of the judgment of the Division Bench in Special Appeal Nos. 27, 34 39 & 42 of 2003 and W.P. Nos. 163 & 4119 of 2006 dated 7.3.2006, on payment of usual charges.

J.Chelameswar, J.

D.Appa Rao, J.

12th June, 2006

MAS